

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

ROBERT CSECH,

Plaintiff,

v.

JOHN PERRY, *et al.*,

Defendants.

Case No. 3:13-cv-00289-MMD-VPC

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE
VALERIE P. COOKE

Before the Court is the Report and Recommendation of Magistrate Judge Valerie P. Cooke ("R&R") entered on July 17, 2014, recommending that Plaintiff's Motion for Summary Judgment (dkt. no. 16) be denied without prejudice and with leave to refile. (Dkt. no. 36.) Plaintiff filed a response to state he accepts the Magistrate Judge's recommendation. (Dkt. no. 37.)


This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." *Id.* Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections

1 were made). Thus, if there is no objection to a magistrate judge's recommendation, then
2 the court may accept the recommendation without review. *See, e.g., Johnstone*, 263 F.
3 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
4 which no objection was filed). As noted, Plaintiff indicated that he does not object to the
5 Magistrate Judge's recommendation. Nevertheless, the Court finds it appropriate to
6 engage in a *de novo* review of all issues to determine whether to adopt Judge Cooke's
7 R&R.

8 Plaintiff filed this 42 U.S.C. § 1983 civil rights action seeking redress for the denial
9 of medical care in violation of his Eighth Amendment rights. (See dkt. no. 4.) Defendants
10 filed a partial motion to dismiss for failure to state a claim against Hastings and McDaniel
11 on January 16, 2014. (Dkt. no. 13.) On January 29, 2014, Plaintiff filed a motion for
12 summary judgment ("Motion"). (Dkt. no. 16.) Briefing was stayed on Plaintiff's Motion
13 pending decision on Defendants' motion to dismiss. (Dkt. no. 26.) On July 8, 2014, the
14 Court accepted the Magistrate Judge's R&R, thereby granting Defendants' partial motion
15 to dismiss. (Dkt. no. 34.) Thus, Plaintiff's claims against Defendant Nathan Hastings
16 have been dismissed with prejudice and Plaintiff's claims against Defendant E.K.
17 McDaniel have been dismissed without prejudice. (*Id.*) Following the dismissal of these
18 two defendants, portions of Plaintiff's Motion are now moot. Accordingly, the Magistrate
19 Judge recommends denial of Plaintiff's Motion without prejudice and with leave to refile,
20 if necessary. The Court agrees.

21 It is hereby ordered that the Magistrate Judge Valerie Cooke's Report and
22 Recommendation ("R&R") (dkt. no. 36) that plaintiff's motion for summary Judgment (dkt.
23 no. 16) be denied without prejudice and with leave to refile is accepted and adopted in
24 its entirety.

25 DATED THIS 10th day of September 2014.

26 
27 _____
28 MIRANDA M. DU
UNITED STATES DISTRICT JUDGE